

DECISION

Dispute Codes MND, MNR, MNSD, FF

Introduction

This hearing dealt with an application by the landlord pursuant to the *Residential Tenancy Act* for orders as follows:

1. A monetary order pursuant to Section 67;
2. An Order to retain the security and/or pet deposit pursuant to Section 38; and
3. An Order to recover the filing fee pursuant to Section 72.

I accept that the tenant was properly served with the Application for Dispute Resolution hearing package.

The tenant did not appear. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

On the basis of the solemnly sworn evidence presented at the hearing a decision has been reached.

Background and Findings

Monetary Order

Rental Arrears

The landlord testified that she received notice from the tenant on December 16, 2009 that the tenant intended to vacate the rental unit December 31, 2009. The landlord testified that she was successful in re-renting the premises as of January 18, 2010 but wishes loss of income for a portion of the notice period. Section 45 of the *Residential Tenancy Act* deals with a notice to end tenancy given by a tenant:

Tenant's notice

45 (1) A tenant may end a periodic tenancy by giving the landlord notice to end the tenancy effective on a date that

(a) is not earlier than one month after the date the landlord receives the notice, and

(b) is the day before the day in the month, or in the other period on which the tenancy is based, that rent is payable under the tenancy agreement.

Given the provisions of Section 45, the evidence in this case shows that the earliest date this tenancy could have ended following a Notice given on December 16, 2009 is January 31, 2010.

As the landlord has mitigated their damages by re-renting the premises as of January 18, 2010, I find that the landlord is entitled to recover of rental loss from the tenant for the period January 1 to 17, 2010 in the sum of \$525.000.

With regard to the landlord's claim for cleaning and repairs in the absence of evidence from the tenant I will rely on the evidence of the landlord and find that the landlord is entitled to a monetary order in the sum of \$235.55 for cleaning and repairs as set out in the landlord's application and evidence.

Security Deposit

I find further that the landlord is entitled to retain the security deposit and interest to the date of this decision in partial satisfaction of the rental arrears.

Filing Fees

I find that the landlord is entitled to recover the filing fees paid for this application.

Calculation of total Monetary Award

Rental Income Loss	\$525.00
Cleaning and damage repair costs	235.55

Filing Fees for the cost of this application	50.00
Less Security Deposit	-425.00
Less Security Deposit interest from January 30, 2009 to the date of this Order	0.00
Total Monetary Award	\$385.55

Conclusion

The landlord is provided with a formal copy of an order for the total monetary award as set out above. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.